IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.4625 OF 1999

Shri Kailash Laxman Choure and Ors. ..Petitioners
Vs.
State of Maharashtra and Ors. ..Respondents

Mr.Anil V. Anturkar for Petitioners
A.G.P. for Respondent Nos.1 to 3

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 5TH APRIL, 2005.

P.C.

. The Petitioners were untrained teachers working in different Ashram Schools. Under the Government Resolution dated 20th March, 1994 and 30th March, 1994 an opportunity was given to the untrained teachers to acquire requisite D.Ed. qualification within a period of eight years. If the untrained teacher fails to acquire requisite qualification, his services were to be terminated. Ignoring these Resolutions Respondent No.3 District Social Welfare Officer, Pune by letter dated 16th July, 1999 informed Secretary and President of the Institutions that the services of the Petitioners were not approved and the Government would not grant for their salary. Petitioner No.1 is M.A. B.Ed. and the Petitioner No.2 is B.A.B.Ed. The Petitioners contend that they possess higher qualification than the qualification of D.Ed. therefore, order dated 16th July, 1999 in respect of

refusal to sanction grants for payments of the salaries of Petitioners is illegal and bad in law. The Petitioners have therefore, filed the present Petition.

2. When the matter came up for hearing Rule was issued on 23rd August, 1999 granting interim relief in terms of prayer clause (b) staying the operation of the said order dated 16th September, 1999 during the pendency of the Petition.

3. Reply filed by Dayanand Atmaram Rakshekar, Special Officer of the District Social Welfare Office for Respondent No.3 sets out that the Petitioners do not possess the requisite qualifications. The Petitioners were allowed to be employed as trained teachers were not available. Resolutions dated 20th March, 1994 and 30th March, 1994 are not applicable to the Petitioners. They are applicable to untrained teachers who fall in category at serial Nos.1 to 10 in para two of the said Resolution. As the Petitioners do not fulfil these conditions they are not entitled to the benefit. The services of the Petitioners are governed by Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. Schedule (b) of the Rules prescribe qualification of D.Ed. for teachers for standards Ist to IVth, which the Petitioners do not possess. On these grounds

Respondent No.3 claims dismissal of the Petition.

4. When the matter came up for hearing learned Counsel for the Petitioner submitted that the Petitioners have not contacted him and therefore, he is not aware of the present factual position.

. The contention that the Petitioners are possessing higher qualification therefore, impugned order dated 16th July, 1999 is illegal cannot be sustained, in view of the Full Bench Judgment of this Court in **2000(3) Maharashtra Law Journal, 605 in the matter of Jayashree Sunil Chavan Vs. State of Maharashtra and others.** However, we do not propose to go into the issues raised. If the Petitioners have by now acquired requisite qualification of D.Ed. and are continued in the employment, their services be protected. In other words their services will not be terminated. In the event they have not acquired the qualifications it is open to the Respondents to take steps to give effect to the earlier directions as contained in letter dated 16th July, 1999. If the Petitioners were in service and have worked, the salary paid to them shall not be recovered.

. Rule made partly absolute accordingly. No order as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)